

FINDING OF EMERGENCY

These regulations are being implemented on an emergency basis for the immediate action to avoid serious harm to the public peace, health, safety, or general welfare, within the meaning of Government Code Section 11346.1. Further, Government Code Section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law, the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code Section 11349.6. To determine the Office of Administrative Law five day comment period check <http://www.oal.ca.gov> often.

DESCRIPTION OF SPECIFIC FACTS WHICH CONSTITUTE THE EMERGENCY

1. The Legislature enacted the provisions of Assembly Bill (AB) 1712 (Chapter 846, Statutes of 2012) on an emergency basis. These emergency regulations will add exemptions and change the policies for child support referrals and residency with regards to the California Work Opportunity and Responsibility to Kids (CalWORKs) program. Parenting non-minor dependents who reside with their children in foster care will not be considered parents for the purposes of child support referral. Moreover, non-minor dependents placed with an approved relative in another state will be eligible for extended CalWORKs benefits.

The Legislature enacted the provisions of AB 212 (Chapter 459, Statutes of 2011) on an urgency basis and to take effect immediately. These emergency regulations will add an exemption and change the policy for child support referrals with regards to the CalWORKs program. Non-minor dependents who have reached the age of 19 will not be considered children for the purposes of child support referral.

Unless these regulations are adopted on an emergency basis, either the parents of NMDs, or some NMDs themselves, will be expected to pay support for children to whom they do not owe support.

2. Section 65 of AB 1712 allows the California Department of Social Services (CDSS) to implement applicable provisions of the law through an All County Letter (ACL) or similar instructions from the Department until regulations are adopted.

Section 34 of AB 212 allows the CDSS to implement applicable provisions of the law through an ACL or similar instructions from the Department until regulations are adopted.

3. Delay in the implementation of these regulations would conflict with the statutory directive that emergency regulations be adopted for the provisions of AB 1712. Relevant portions of AB 1712, Section 65 read as follows:

- (a) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5, commencing with Section 11340, of Part 1 of Division 3 of Title 2 of the Government Code), the department shall prepare for implementation of the applicable provisions of this act by publishing, after consultation with the stakeholders listed in subdivision (a), all-county letters or similar instructions from the Director of Social Services by April 1, 2013. Emergency regulations to implement the applicable provisions of this act may be adopted by the director in accordance with the Administrative Procedure Act.
- (b) The initial adoption of the emergency regulations and one readoption of the emergency regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. Initial emergency regulations and the first readoption of those emergency regulations shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days.

This language directs the CDSS to adopt emergency regulations by July 1, 2013, implementing the statutory changes made by AB 1712.

4. Delay in the implementation of these regulations would conflict with the statutory directive that emergency regulations be adopted for the provisions of AB 212. Relevant portions of AB 212, Section 34 read as follows:

- (a) Notwithstanding the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall prepare for implementation of the applicable provisions of this section by publishing, after consultation with the stakeholders listed in subdivision (i), all-county letters or similar instructions from the director by October 1, 2011, to be effective January 1, 2012. Emergency regulations to implement the applicable provisions of this act may be adopted by the director in accordance with the Administrative Procedure Act.
- (b) The initial adoption of the emergency regulations and one readoption of the emergency regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. Initial emergency regulations and the first readoption of those emergency regulations shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section

shall be submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days.

This language directs the CDSS to adopt emergency regulations by July 1, 2012, implementing the statutory changes made by AB 212.

5. Therefore, in order to preserve the public peace, health, safety, and general welfare of the State of California, these regulations are adopted on an emergency basis.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current law requires California Work Opportunity and Responsibility to Kids (CalWORKs) non-minor dependents (NMDs) to comply with the requirements for Statewide Fingerprint Imaging System (SFIS), child support referral, and residency. NMDs must be fingerprinted and photo imaged, referred to the local child support agency for the collection or enforcement of child support, and be placed with approved relatives in-state.

Effective January 1, 2013, Assembly Bill (AB) 1712 (Chapter 846, Statutes of 2012):

- 1) exempts NMDs from the SFIS requirements,
- 2) exempts parenting NMDs from referral to the local child support agency for the payment of child support while in foster care, and
- 3) allows NMDs to receive extended CalWORKs benefits even if they are placed with an approved relative in another state.

Effective October 4, 2011, AB 212 (Chapter 459, Statutes of 2011) exempts parents of NMDs from referral to the county for child support payments.

These proposed regulations amend the California Department of Social Services Manual of Policies and Procedures to extend CalWORKs benefits to NMDs placed with approved relatives out-of-state and exempt NMDs from the SFIS and child support referral requirements.

The Department anticipates that these proposed regulations will benefit CalWORKs NMDs by expanding their placement options and reducing barriers to eligibility. Also, by not referring parenting NMDs to the local child support agency, AB 1712 will allow NMDs to retain more of their benefits. These, in turn, will ease the transition to adulthood while improving well-being and outcomes for NMDs.

The Department finds that these proposed regulations are compatible and consistent with the intent of the Legislature in adopting AB 1712 and AB 212, as well as with existing state regulations.

COST ESTIMATE

1. Costs or Savings to State Agencies: No Impact

2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance With Government Code Sections 17500 - 17630: None
3. Nondiscretionary Costs or Savings to Local Agencies: No Impact
4. Federal Funding to State Agencies: No Impact

LOCAL MANDATE STATEMENT

These regulations do impose a mandate upon local agencies, but not on school districts. There are no "state-mandated local costs" in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code because any costs associated with the implementation of these regulations are costs mandated by the federal government within the meaning of Section 17513 of the Government Code.

AUTHORITY AND REFERENCE CITATIONS

The CDSS adopts these regulations under the authority granted in Sections 10553 and 10554, Welfare and Institutions Code. Subject regulations implement and make specific Sections 11253(b)(2) and 11253(c), Welfare and Institutions Code; and, Sections 17552(e) and 17552(f), Family Code.